

HOUSATONIC VALLEY CONSTRUCTION)
CO., INC.,)

AGBCA No. 2000-150-R

Appellant)

Representing the Appellant:)

Kim A. Coolbeth, President)

Housatonic Valley Construction Co., Inc.)

365 Kent Hollow Road)

Kent, Connecticut 06757)

Representing the Government:)

Arno Reifenberg)

Office of the General Counsel)

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DECISION OF THE BOARD OF CONTRACT APPEALS

August 2, 2000

Before HOURY, POLLACK, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK, with concurring opinion by Administrative Judge HOURY.

Appellant has filed a timely Motion for Reconsideration of the Board's decision, Housatonic Valley Construction Co., AGBCA No. 1999-181-1, 00-1 BCA ¶ 30,869, denying its appeal of a Contracting Officer's final decision denying its claim for an equitable adjustment under Contract No. 50-04M3-8-0022 for the construction of a sand filter sewer system in the Starkey Experimental Forest of the Wallowa-Whitman National Forest in Oregon.

In its motion, Appellant submits arguments made, or which could have made, at the time of its original Rule 11 submission. The fact that much of Appellant's motion tracks the analysis contained in the dissent is evidence that these contentions were available for presentation at that time. The Government's response to the motion defends on the ground that Appellant is now presenting arguments available originally.

Reconsideration is discretionary with the Board and will not be granted in the absence of compelling reasons, *i.e.*, clear error of fact or law, or newly discovered evidence that could not have been discovered at the time of the original proceeding. Reconsideration is not intended to permit a party to reargue its position or to present additional arguments that could have been presented originally. Thomas B. Prescott, AGBCA No. 2000-108-R, 00-1 BCA ¶ 30,722; Timber Rock Reforestation, AGBCA No. 97-194-R, 98-1 BCA ¶ 29,360; Rain and Hail Insurance Service, Inc., AGBCA No. 97-180-R, 97-2 BCA ¶ 29,121; White Buffalo Construction, Inc., AGBCA No. 95-221-R, 96-1 BCA ¶ 28,050.

Appellant has not raised a basis meriting reconsideration. RR & VO, L.L.C., AGBCA No. 1999-178-R, 99-2 BCA ¶ 30,526; Raji Abdus-Salaam, AGBCA No. 99-147-R, 99-1 BCA ¶ 30,309.

DECISION

Accordingly, the Board denies the Appellant's motion seeking reconsideration.

ANNE W. WESTBROOK

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

Concurring Opinion by Administrative Judge HOURY.

Although I concur that Appellant reargued its position and failed to raise a basis meriting reconsideration, the appeal should nevertheless be sustained for the reasons expressed in the dissenting opinion.

EDWARD HOURY

Administrative Judge

Issued at Washington, D. C.

August 2, 2000.